

MINUTES  
COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT

Monday, April 3, 2006

Division One

**A109354 – Janice L. Ross et al., v. CMR Mortgage Fund, LLC.**

By the Court: The petition for rehearing is denied. Swager, Acting P.J.

Division Two

**A112750 – Mark Lewis v. Ryan M. Carrigan.**

The appeal is dismissed. Carrigan is awarded costs. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication)

Division Three

**A107447 – The People v. Perfecto Avellaneda.**

The judgment is affirmed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication)

Division Five

**A110563 – In re William V., a Person Coming Under the Juvenile Court Law. The People v. William V.**

The April 26, 2005 dispositional order is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

Tuesday, April 4, 2006

Division One

**A112218 – The People v. Ron Walls.**

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

**A112942 – L.M. v. Superior Court of Contra Costa County; Contra Costa County Bureau of Children & Family Services et al.; R.P.I.**

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4<sup>th</sup> 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) This decision is final in this court immediately. (Rule 24(b)(3).) Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Five

**A112985 – Pamela P. v. Contra Costa Superior Court; Contra Costa County, Bureau of Children and Family Services, R.P.I.**

The order to show cause is discharged, and the petition for writ of mandate is denied. (Welf. & Inst. Code, § 366.26, subd. (1)(1)(C); Cal. Rules of Court, rule 38.1(d); *In re Julie S.* (1996) 48 Cal.App.4<sup>th</sup> 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) Reardon, J.\* We Concur: Jones, P.J., Simons, J. (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, April 5, 2006

Division One

**A111386 – In re Brad S., a Person Coming Under the Juvenile Court Law. The People v. Brad S.**

The judgment of the juvenile court is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday April 5, 2006

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J. and Margulies, J.; and P. Aguilar, Deputy Clerk.

A107231 Sonia Azizian et al.  
v.  
Ronald E. Cearly et al.  
Cause called and argued by John Schreiber, counsel for appellants, and Malcolm Leader-Picone, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench and Justice Swager joined the bench.

A108765 People  
v.  
Lazaro Antonio Barahona  
Cause called and argued by Violet Elizabeth Grayson, by telephone, counsel for appellant, and John Vance, counsel for respondent. Cause ordered submitted.

A108884 People  
v.  
Juan Magallon  
Cause called and argued by Eric Weaver, counsel for appellant, and Linda Murphy, counsel for respondent. Cause ordered submitted.

A109438 North Gualala Water Company  
v.  
State Water Resources Control Board  
Cause called and argued by Alan B. Lily, counsel for appellant, and Mark Poole, counsel for respondent. Cause ordered submitted.

A111594    Americans for Safe Access et al.  
              v.  
              County of Alameda et al.  
Cause called and argued by Gregory Luke, counsel for appellant, and Charles  
Bell, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION ONE

Wednesday, April 5, 2006

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J., and F. Abad, Deputy Clerk.

A108702 J.W. Silveira,  
v.  
County of Alameda.  
Cause called and argued by Bruce McIntosh, counsel for appellant, and Claude Kolm, counsel for respondent. Cause ordered submitted.

A107450 The People,  
v.  
Spencer Stromberg.

A112282 In re Spencer Stromberg on Habeas Corpus.  
Cause called and argued by Peggy Headley, counsel for appellant via teleconferencing, and Allen Crown, counsel for respondent. Cause ordered submitted.

Justice Marchiano left the bench, Justice Margulies joined the bench, and Justice Stein presided over the remainder of the calendar.

A109018 Jerold Boscoe, et al.,  
v.  
Port Ludlow Associates.  
Cause called and argued by Kenneth Pritikin, counsel for appellants, and Kevin McCann, counsel for respondent. Cause ordered submitted.

Court adjourned.

There were no cases scheduled for oral argument on April 4, 2006.

Wednesday, April 5, 2006 (continued)

Division Two

**A108147 – Cynthia Siciliano v. Town of Tiburon.**

Appellant has failed to sustain her burden of demonstrating that there is no substantial evidence to support the denial of her sign permit application. Accordingly, the judgment is affirmed. Respondent Town is awarded its costs. Kline, P.J. We Concur: Lambden, J., Ruvolo, \*J. (Not for Publication)

**A110435 – Wendy Farnsworth v. David Tint, et al.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.\* (Not for Publication)

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\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, April 5, 2006 (continued)

Division Three

**A109708 – Eric Mathewson v. BDO Seidman, et al.**

The order denying the motion to stay proceedings and to compel arbitration is reversed. The trial court is directed to enter a new order granting the motion consistent with the views set forth in this opinion concerning punitive damages, cost and fee shifting, and Mathewson's claims for injunctive relief under Business & Professions Code section 17200 et seq. Each side shall bear its own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A109677 – Anna Ng v. BDO Seidman, et al.**

The order denying the motion to stay proceedings to compel arbitration is reversed. The trial court is directed to enter a new order granting the motion consistent with the views set forth in this opinion concerning punitive damages, shifting costs and fees, and Ng's claims for injunctive relief under Business & Professions Code section 17200 et seq. Each side shall bear its own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A108973 – Ramesh Balwani v. BDO Seidman, et al.**

The order denying the motion to stay proceedings and to compel arbitration is reversed. The trial is directed to enter a new order granting the motion consistent with the views set forth in this opinion concerning punitive damages, cost and fee shifting, and Balwani's claims for injunctive relief under Business & Professions Code 17200 et seq. Each side shall bear its own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A107681 – Nathalie R. Cowan and David J. Cowan v. BDO Seidman, et al.**

The order denying the motion to stay proceedings and to compel arbitration is reversed. The trial court is directed to enter a new order granting the motion consistent with the views set forth in this opinion concerning punitive damages, cost and fee shifting, and the Cowans' claims for injunctive relief under Business & Professions Code 17200 et seq. Each side shall bear its own costs on appeal. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

**A106928 – The People v. Valentino Alexander.**

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)



Wednesday, April 5, 2006 (continued)

Division Four

**A109589 – Camico Mutual Insurance Company v. Rooney, Ida, Nolt and Ahern Accountancy Corporation.**

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication)

Division Five

**A110539 – John Bonduris et al., v. Marshall William Lyons.**

The judgment is affirmed. Costs to respondents. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A112956 – Michael Glicksberg, et al., v. Marcus & Millichap, et al.**

By the Court: The motion to dismiss is granted. The consolidation order does not constitute a final judgment under Code of Civil Procedure section 904.1, subdivision (a)(1). (See *Kinoshita v. Horio* (1986) 186 Cal.App.3d 959, 962-963 [as codified by section 904.1, the “final judgment rule” precludes appeal of an interlocutory judgment unless it is of a type specified in the statute]; *Garden Grove Community Church v. Pittsburgh-Des Moines Steel Co.* (1983) 140 Cal.App.3d 251, 265 [“consolidation of separate arbitrations does not make a party to one a party to the other... The only question [resolved by consolidation] is whether the two arbitration matters... should be heard at the same time and place or whether they should be heard separately”].) Code of Civil Procedure section 1294 does not authorize appeal of a consolidation order and the collateral matter exception to the one final judgment rule does not apply (see *Sjoberg v. Hastorf* (1948) 33 Cal.2d 116, 119). Respondents’ request for sanction and attorney fees is denied as the appeal was not frivolous or taken solely for delay. (Code Civ. Proc., § 907; see *Henneberque v. City of Culver City* (1985) 172 Cal.App.3d 837, 842.) Jones, P.J.

Thursday, April 6, 2006

Division Three

**A110851 – The People v. Richard Kenneth Martin III.**

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication)

**A110441 – Hillsboro Properties et al., v. City of Rohnert Park et al.**

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Certified for Publication)

Division Five

**A109606 – Mohamed Othman v. Wells Fargo Bank, N.A.**

The judgment is affirmed. Reardon, J.\* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

**A109976 – Fletcher Clover v. Espi Sanjana.**

The judgment is reversed and remanded for trial as to the dental costs Clover allegedly incurred as a result of accident. Clover shall recover his costs on appeal from Sanjana. Reardon, J.\* We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A111400 – The People v. Diane McDaniels.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Reardon, J.\* (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, April 7, 2006

Division One

**A111282 – In re Kimberly C., a Person Coming Under the Juvenile Court Law. The People v. Kimberly C.**

The adjudication of wardship and the disposition are affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Four

**A107542 and A108372 – Salvio Pacheco Square, LLC v. Secure Computing Corporation.**

The judgment is affirmed. Landlord shall recover its costs on appeal. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

**A110438 – Douglas P. Smith v. Greg Ray Berezay.**

The judgment is affirmed. Berezay is entitled to costs on appeal. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

Division Five

**A107893 – Jasmine Benjamin-Sohal et al., v. Kaiser Foundation Hospitals et al.**

The judgments are affirmed. Gemello, J. We Concur: Simons, Acting P.J., Reardon, J.\* (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, April 10, 2006

Division One

**A109547 – The People v. Lisa Renee Brown.**

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

**A110712 – The People v. Charles L. Grecian.**

The order committing defendant as an SVP is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Four

**A111218 – G.A. Skip Moore v. Theodore Rosantsson et al.**

The judgment and post trial orders are affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

**A108301 – Frances Boyle et al., v. Certainteed Corporation.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

**A108612 – The People v. Shannon Lee White.**

The judgments are affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

Division Five

**A110742 – The People v. Finau Dominic Takapu.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Reardon, J.\* (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, April 11, 2006

Division One

**A107445 – The People v. Bill Bunn.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

**A108705 – Patricia Levesque v. National Health Laboratories Inc., et al.**

We affirm the order denying plaintiffs' motion for interest on attorney fees and denying plaintiffs' motion for sanctions. Kline, P.J. We Concur: Lambden, J., Ruvolo, J.\* (Not for Publication)

Division Three

**A108354 – Kendra Lamb v. Wells Fargo Bank, N.A.; Fred Sondheimer, Objector and Appellant.**

**A108355 – Kendra Lamb v. Wells Fargo Bank, N.A.; Andrea Chiang, et al.; Objectors and Appellants.**

The judgment is affirmed. Each party to bear its own costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication)

**A111261 – The People v. Douglas Allen Yost.**

The judgment is hereby amended to reflect credit for 142 days of presentence custody, consisting of 95 days actual time and 47 days of credit under section 4019, on superior court case No. 043055. As so modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting these modifications and to forward a certified copy of the abstract to the Department of Corrections. Pollak, J. We Concur: McGuinness, P.J., Siggins, J. (Not for Publication)

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\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR  
Tuesday, April 11, 2006

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Mindy LaPonte, Bailiff.

A109482      Albert B. Del Masso  
                 v.  
                 Mark Technologies Corporation et al.  
Cause called. Patrick J. Sullivan argued for appellant Del Masso. Gary Kershner argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Rivera, J.

A109981      Phyllis G. Potter et al.  
                 v.  
                 Patricia Ann Day  
Cause called. Eric G. Lundberg argued for appellant Day. Dennis Blum argued for respondents. Cause submitted.

At this point, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J. and Rivera, J.

A111706      Barry Turner et al.  
                 v.  
                 Barry Meskin  
Cause called. Stephen Kennedy argued for appellants Turner et al. Mark R. Gibson argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J. and Rivera, J.

A111508      Colleen Hennessy  
                 v.  
                 Boston Men's Health Center, Inc.  
Cause called. Peter Craigie argued for appellant Hennessy. Oswald Cousins argued for respondent. Cause submitted.

The court adjourned at 10:29 a.m.

Tuesday, April 11, 2006 (continued)

Division Five

**A108921 – The People v. Herbierto Quintero.**

The judgment of conviction is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J.  
(Not for Publication)

Wednesday, April 12, 2006

Division One

**A109018 – Jerrold Bosco et al., v. Port Ludlow Associates LLC.**

The trial court's orders are affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

Division Two

**A111334 – EDS Investment Company I, L.L.C. et al., v. Fortrend International, L.L.C. et al.**

The judgment is affirmed. Appellants are to pay costs. Lambden, J. We Concur: Haerle, Acting P.J., Busch, J.\* (Not for Publication)

**A110080 – The People v. Cameron Shepard.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J.\* (Not for Publication)

**A110739 – The People v. Christina Mendivil.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.\* (Not for Publication)

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\* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

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COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, April 12, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Parrilli, J., and Pollak, J.; and J. Alameda, Deputy Clerk.

A108527    The People,  
              v.

Sam Donte Gray.

Cause called. Counsel for appellant, Philip M. Brooks, requests that he be allowed to file a supplemental opening brief. The request is denied. Cause argued by Philip M. Brooks, counsel for appellant, and Rene Chacon, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Siggins joined the bench. Justice Parrilli did not participate in argument of the next case, but remained in the courtroom.

A107532    Morgan Robert Smock,  
A108413    v.

State of California Department of Transportation.

Cause called and argued by Janet Y. Wong, counsel for appellant, and Joseph A. Hearst, counsel for respondent. Cause ordered submitted.

Justice Siggins did not participate in argument of the next case, but remained in the courtroom.

A112669    Elton McQuarters,  
              v.

Superior Court, County of Alameda,  
The People.

Cause called and argued by Charles Mandeville Denton, counsel for petitioner, and Rene Chacon, counsel for the real party in interest. Cause ordered submitted.

Continued.

At this point in the proceedings, Presiding Justice McGuinness left the bench and Justice Parrilli presided over the remainder of the morning session.

- A108151     San Mateo County Fire Fighters, et al.,  
              v.  
              The South County Fire Protection Authority, et al.  
Cause called and argued by Sylvia B. Courtney, counsel for appellants, and Richard C. Bolanos, counsel for respondents. Cause ordered submitted.
- A110865     Lance Covarrubias,  
              v.  
              Brian Keflaotis, et al.,  
Cause called and argued by Merrill G. Emerick, counsel for appellant, and Michael Craig Douglass, counsel for respondents. Cause ordered submitted.
- A108644     Jerilyn Getz,  
              v.  
              Scott W. Gibbs.  
Cause called and argued by Robert M. White, counsel for appellant, and Gregory R. Ellis, counsel for respondent. Rebecca Frye appeared for the respondent but did not argue. Cause ordered submitted.

Court Adjourned.

Wednesday, April 12, 2006 (continued)

Division Four

**A108676 – People of the State of California et al., v. Richard B. Zinn, Sr.**

The appeal is dismissed as moot, and the case is remanded to the trial court with directions to vacate the judgment and dismiss the action as moot. In the interests of justice, the parties shall each bear their own costs on appeal. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

**A108680 – Brenda Samson et al., v. Metalclad Insulation Corp.**

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

Wednesday, April 12, 2006 (continued)

Division Five

**A111741 – The People v. Jimmy Larry Perry.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A110230 – Priscilla Ayers v. Chiron Corporation et al.**

Summary judgment is reversed. Chiron is entitled to summary adjudication of the second cause of action, alleging discrimination on the basis of age or age and gender under FEHA, only. Appellant shall recover costs on appeal. Reardon, J.\* We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A110807 – The People v. Jonas Peacock.**

There are no issues that require further briefing. The order is affirmed. Jones, P.J. We Concur: Gemello, J., Reardon, J.\* (Not for Publication)

**A110076 – The People v. Hoarce William Chapple.**

Order Modifying Opinion and Certifying Opinion for Publication and no change in judgment. The Court: The opinion in the above-entitled matter, filed on March 21, 2006, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. It is further ordered that the opinion be modified as follows: (See Order) There is no change in the judgment. Jones, P.J. (Certified for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, April 13, 2006

Division One

**A110775 – The People v. Ezequiel Fernandez.**

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

**A108618 – Shawn Mooney v. William S. Caspari et al.**

Accordingly, the judgment in favor of respondent is reversed. The case is remanded to the trial court with directions to enter judgment in favor of appellants. Costs on appeal are awarded to appellants. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Certified for Publication)

**A108884 – The People v. Juan Magallon.**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

**A093450 and A094395 – Robert A. Borissoff, as Executor, etc., v. Taylor & Faust et al.**

The judgment in both appeals are affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication)

Division Four

**A109346 – The People v. Jayson Lavern Mode.**

The judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

Division Five

**A107821 and A108061 – The People v. Willie Schoby, Jr.**

The judgment is affirmed. Reardon, J.\* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, April 14, 2006

Division Two

**A107039 – The People v. John Allen Muise.**

The judgment of conviction is modified by staying the concurrent sentences on Counts 2 and 3 pursuant to Penal Code section 654. As so modified, the judgment is affirmed. The clerk of the trial court is directed to file an amended abstract of judgment and to forward a certified copy to the Department of Corrections. Kline, P.J. We Concur: Haerle, J., Busch, J.\* (Not for Publication)

**A106588 – The People v. Ranger Insurance Company.**

We reverse the summary judgment entered against Ranger and its bail agent. We direct the trial court on remand to vacate the forfeiture and to exonerate the bail bond. Ranger is awarded its costs on appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J.\* (Not for Publication)

Division Four

**A111264 – Janice Fenster et al., v. Tiburon Town Council; Belvedere-Tiburon Library Agency, R.P.I.**

The motion to dismiss is denied. The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

**A112181 – In re Jessica H., a Person Coming Under the Juvenile Court Law. The People v. Jessica H.**

The order declaring appellant to be a ward of the court and placing her in juvenile hall for the term of one year is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

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\* Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, April 14, 2006 (continued)

Division Five

**A111352 – In re John D., a Person Coming Under the Juvenile Court Law. The People v. John D.**

The juvenile court's dispositional order is reversed and this matter is remanded for the trial court to reconsider granting deferred entry of judgment consistent with the views expressed herein and to exercise its discretion to designate the sustained offense as a felony or misdemeanor. Gemello, J. We Concur: Jones, P.J., Reardon, J.\* (Not for Publication)

**A109471 – The People v. Ricky Leon Williams.**

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

**A110825 – In re Yuriy A., a Person Coming Under the Juvenile Court Law. The People v. Yuriy A.**

The order is affirmed. Jones, P.J. We Concur: Simons, J., Reardon, J.\* (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

MINUTES

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION FIVE

Wednesday, April 19, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J., and Richard H. Sandvik, Deputy Clerk.

- A108743      The People  
                 v.  
                 Andrew Mackey  
                 Cause called and argued by Larue Grim, counsel for appellant, and by Christopher J. Wei, counsel for respondent. Cause ordered submitted.
- A108886      Suzanne N. Lindelli, et al.  
                 v.  
                 Town of San Anselmo, et al.  
                 Remecho, Joansen & Purcell  
                 Cause called and argued by Thomas A. Willis, counsel for appellant, and by Elliot L. Bien, counsel for respondent. Cause ordered submitted.
- A109483      Joyce S. Heilig  
                 v.  
                 Ralph E. Wood  
                 Cause called and argued by Henry W. Walters, counsel for appellant, and by John R. Vaught, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Gemello, J. left the bench and Reardon, J. took his place on the bench.

- A111082      John Paul Mallick  
                 v.  
                 Chon Gutierrez, as Director of the Department of Motor Vehicles  
                 Cause called and argued by Peter Goodman, counsel for appellant, and by Mary Susan Cain-Simon, counsel for respondent. Cause ordered submitted.

A110367      AICCO  
v.  
Insurance Company of North America  
Cause called and argued by Floyd Abrams, counsel for appellant, and by Paul B. Salvaty, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Simons, J. left the bench and Gemello, J. took his place on the bench.

A111108      Leonidas Mavromatis, et al.  
v.  
Sofia German  
Cause called and argued by Jeffrey S. Rosen, counsel for appellant, and by Michael K. Tcheng, counsel for respondent. Cause ordered submitted.

A106946      The People  
v.  
Eddie Cole  
Cause called and argued by Donald M. Horgan, counsel for appellant, and by Lisa A. Ott, counsel for respondent. Cause ordered submitted.

A107671      The People  
v.  
Joseph Edward Hughes  
Argument waived by appellant counsel prior to oral argument.

Court adjourned at 11:50 a.m.



Thursday, April 20, 2006

Division One

**A112563 – The People v. Achille Anthony Rosetti.**

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

Division Two

**A110302 – The People v. Lorenzo Moreno Martinez.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.\* (Not for Publication)

Division Three

**A107947 – The People v. Terry Haddix.**

By the Court: The petition for rehearing is denied. Parrilli, Acting P.J.

**A108644 – Jerilyn Getz v. Scott W. Gibbs.**

The trial court's order terminating husband's obligation to pay spousal support and to maintain life insurance on wife's behalf is affirmed. Husband shall recover his costs on appeal. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

Division Four

**A110977 – Paul Carella v. eBay Inc.**

The judgment is affirmed. Costs on appeal are awarded to eBay. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

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\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, April 21, 2006

Division One

**A110662 – The People v. Rena Whitney Corban.**

**A112528 – In re Rena Whitney Corban, on Habeas Corpus.**

The judgment is affirmed and the petition for writ of habeas corpus is denied.  
Marchiano, P.J. We Concur: Stein, J., Swager, J. (Certified for Partial Publication)

**A107206 – Michael Peter McAlpine v. Rene Peinado.**

The order of May 14, 2004, is affirmed. Marchiano, P.J. We Concur: Swager, J.,  
Margulies, J. (Not for Publication)

**A109151 – Terence Bunton et al., v. Michael Barber.**

The order of the trial court is affirmed. Margulies, J. We Concur: Stein, Acting P.J.,  
Swager, J. (Not for Publication)

Division Two

**A110376 – In re Kelvin S., a Person Coming Under the Juvenile Court Law. Solano  
County Department of Health and Social Services v. Kevin S.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Busch, J.\* (Not for  
Publication)

**A110765 – In re Y. B., a Person Coming Under the Juvenile Court Law. Alameda  
County Social Services Agency v. Jasmine A.**

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J.  
(Not for Publication)

**A110963 – In re Tobias W. and Trent C., Person Coming Under the Juvenile Court  
Law. Solano County Department of Health and Social Services v. T.W.**

The dispositional order is reversed as to minor Tobias W.; it is affirmed as to minor Trent  
C. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

**A110907 – In re F. G., a Person Coming Under the Juvenile Court Law. San Mateo  
County Human Services Agency v. Flaviano G., Jr.**

The appeal is dismissed as moot. Kline, P.J. We Concur: Haerle, J., Richman, J. (Not  
for Publication)

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\* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, April 21, 2006 (continued)

Division Three

**A108701 – The People v. Sean Muldrow.**

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication)

Division Four

**A109491 – Carol Gilbert, Inc. v. Ruby’s Restaurant Group.**

By the Court: The petition for rehearing is denied. Ruvolo, P.J.

Division Five

**A106946 – The People v. Eddie Cole.**

The judgment of conviction is affirmed. Reardon, J.\* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A107671 – The People v. Joseph Edward Hughes.**

The judgment is affirmed. Reardon, J.\* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, April 24, 2006

Division One

**A109026 and A110426 – In re David H., a Person Coming Under the Juvenile Court Law. Kevin C. v. David H.**

The orders are affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Three

**A103031 – Aram Sohigian et al., v. City of Oakland et al.**

Appellant's petition for rehearing and request for publication are denied. McGuiness, P.J.

Division Four

**A109915 – The People v. Ernesto Gutierrez.**

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

**A110812 – The People v. Arsenio Russhon Morgan.**

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

Monday, April 24, 2006 (continued)

Division Five

**A108600 – Jane A. Graff v. Vallejo City Unified School District.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A111082 – John Paul Mallick v. Chon Gutierrez, as Director, etc.**

The judgment is affirmed. Reardon, J.\* We Concur: Jones, P.J., Simons, J. (Not for Publication)

**A106121 – Jane A. Graff v. Vallejo City Unified School District.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

**A111108 – Leonidas Mavromatis et al., v. Sofia German et al.**

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Reardon, J.\* (Not for Publication)

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\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, April 25, 2006

Division One

**A111159 – In re Dionte K., a Person Coming Under the Juvenile Court Law. The People v. Dionte K.**

The orders of the juvenile court are affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

**A109907 – The McGraw-Hill Companies, Inc. v. Franchise Tax Board.**

Order Modifying Opinion and Denying Rehearing and no change in judgment. The Court: It is ordered that the opinion filed herein on March 30, 2006, be modified as follows: (See Order) There is no change in the judgment. The petition for rehearing is denied. Marchiano, P.J. (Not for Publication)

Tuesday, April 25, 2006 (continued)

Division Two

**A111262 – The People v. Suzette Marie Howard.**

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J.\*  
(Not for Publication)

**A107812 – The People v. Abraham Jesus Hurtado.**

The judgment of conviction is reversed as to count 1 only (attempted voluntary manslaughter) and this case is remanded to the superior court for further proceedings consistent with this opinion. Haerle, J. We Concur: Kline, P.J., Ruvolo, J.\* (Not for Publication)

**A109985 – James Richard Odle v. The Superior Court of Contra Costa County; The People, R.P.I.**

By the Court: It is ordered that the opinion filed herein on March 29, 2006, be modified as follows: (See Order) These modifications do not effect a change in the judgment. Appellant's petition for rehearing is denied. Presiding Justice Kline is of the opinion the petition should be granted. Haerle, J. (Not for Publication)

**A111348 – In re Donald J., a Person Coming Under the Juvenile Court Law. The People v. Donald J.**

The juvenile court's orders are affirmed. Kline, P.J. We Concur: Haerle, J. Richman, J.  
(Not for Publication)

**A110459 – The People v. Danny Reuben Kerbs.**

The trial court's order is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

**A110051 – The People v. Joelle Burgess.**

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication)

**A111466 – The People v. Peter Holmes.**

The order of probation is affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J.  
(Not for Publication)

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\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, April 25, 2006 (continued)

Division Four

**A110694 – The People v. Zena We Mehari.**

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

**A109918 – Jack Costenbader, as a Derivative Plaintiff, etc. v. Donald J. Costenbader et al.**

The judgment is affirmed. Jack is to recover his costs on appeal. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

**A113406 – In re Anna Urbina, on Habeas Corpus.**

By the Court\*: Petitioner Anna Urbina seeks relief from her trial counsel's failure to file a timely notice of appeal. We will grant her petition for writ of habeas corpus, permitting her to pursue her appeal. The petition for writ of habeas corpus is granted. The Clerk of San Francisco County Superior Court is directed to file the notice of appeal received January 4, 2006, in *People v. Urbina*, Case No. 194373, and to prepare the record on appeal. \*Ruvolo, P.J., Sepulveda, J., Rivera, J. (Not for Publication)



MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, April 25, 2006

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J. and Rivera, J.; Ines Calanoc, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A107796      The People,  
                 v.  
                 Begonia Ray Morgande.  
Cause called. Carol Strickman argued for appellant Begonia Ray Morgande. Linda Murphy argued for respondent. Cause submitted. Sepulveda, J. left the bench after this case.

At this point, the court reconstituted itself to include Ruvolo, P.J. and Rivera, J. Reardon, J.'s presence was waived by both parties for the next case.

A113284      Elissa R.,  
                 v.  
                 The Superior Court of Alameda County;  
                 Alameda County Social Services Agency.  
Cause called. Dennis Reid argued for petitioner Elissa R. Grace Tam argued for respondent. Cause submitted. Ruvolo, P.J. left the bench after this case.

At this point, the court reconstituted itself to include Sepulveda, J. and Rivera, J. Reardon, J.'s presence was waived by both parties for the next case.

A110544      William Noble Post II,  
                 v.  
                 Chon Gutierrez, as Director of Department of Motor Vehicles, et al.  
Cause called. Joshua Irwin argued for appellant DMV. Alan Dressler argued for respondent. Cause submitted.

The court adjourned at 11:01 a.m.

MINUTES  
CALIFORNIA COURT OF APPEAL  
FIRST APPELLATE DISTRICT  
DIVISION FOUR

Tuesday, April 25, 2006

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Viktor Scrivner, Bailiff.

A109827      People  
                 v.  
                 Rene Orlando Benavides  
Cause called. Karl William Krooth argued for appellant Benavides. Mark Howell argued for respondent. Cause submitted.

At this point, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A108975      People  
                 v.  
                 Bobby McHenry  
Cause called. Victor J. Morse argued for appellant McHenry. Stan Helfman argued for respondent. Cause submitted.

A108521      People  
                 v.  
                 Larry O. Johnson  
Cause called. Matthew A. Siroka argued for appellant Johnson. Allen Crown argued for respondent. Cause submitted.

The Court adjourned at 2:29 p.m.

Tuesday, April 25, 2006 (continued)

Division Five

**A109479 – In re Vanessa M., a Person Coming Under the Juvenile Court Law.  
Alameda County Social Services Agency v. Franklin M.**

We reverse. Simons, J. We Concur: Jones, P.J., Stevens, J.\* (Certified for Publication)

**A109483 – Joyce S. Heilig v. Ralph E. Wood.**

The judgment is reversed with respect to dismissal of the first and third causes of action, affirmed in all other respects, and remanded for further proceedings consistent with this opinion. Plaintiff is awarded her costs on appeal. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

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\* Retired Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

COURT OF APPEAL  
STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

Wednesday, April 26, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Parrilli, J., and Siggins, J.; and B. Robbins, Deputy Clerk.

- A111650 James Faulkner,  
v.  
Steve Westley, as Controller.  
Cause called and argued by Stephen E. Hagen, counsel for appellant, and Vickie Pochelle Whitney, counsel for respondent. Cause ordered submitted.
- A109592 The People,  
v.  
Renaldo David Dominguez.  
Cause called and argued by Amy Haddix, counsel for appellant, and Gordon Stewart Brownell, counsel for respondent. Cause ordered submitted.
- A111275 Kenneth B. Tishgart,  
v.  
John Feder.  
Cause called and argued by Terence F. Young, counsel for appellant, and Jonathan E. Gertler, counsel for respondent. Cause ordered submitted.
- A102945 Waukeen McCoy, et al.,  
A103454 v.  
A104172 Angela Alioto, et al.  
A105955 Cause called and argued by Dow Patten, counsel for appellants, and Steven L. Robinson, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench and Justice Pollak joined the bench. Justice Parrilli presided over the remainder of the morning session.

- A1105955 Elizabeth Karnazes,  
v.  
Peter Karnazes.  
Cause called and argued by Elizabeth Karnazes, appellant in pro per, and Cameron M. Miller, counsel for respondent. Cause ordered submitted.
- A108820 Lydia Dittmeier,  
v.  
Mendocino County Department of Animal Care and Control, et al.  
Cause called and argued by Lydia Dittmeier, appellant in pro per, and Frank E. Zotter, counsel for respondents. Cause ordered submitted.
- A109088 Bescom International, Inc., et al.  
v.  
Victoria Tseng, et al.  
Cause called and argued by Paul A. Madruga, counsel for appellants, and Arthur M. Brunswasser, counsel for respondents. Cause ordered submitted.

Court adjourned.

Friday, April 28, 2006

Division Two

**A106122 – Denis Hayes v. Harbor Sand and Gravel, Inc., et al.  
-- Bell Marine Co., Inc., et al., v. RMC Pacific Materials, Inc.**

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J.\* (Not for Publication)

Division Four

**A110422 – In re Gregory T., a Person Coming Under the Juvenile Court Law. The People v. Gregory T.**

The juvenile court is directed to amend the amended commitment to the CYA filed April 22, 2005, at paragraph 6c to show a violation of Penal Code section 140 and at paragraph 8 to show a maximum period of confinement of 20 months plus life. The court is also directed to forward a copy of the commitment order as amended to the CYA. In all other respects, the order is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

**A109827 – The People v. Rene Orlando Benavides.**

The trial court's order is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

**A110676 – In re Ariel K., a Person Coming Under the Juvenile Court Law. The People v. Ariel K.**

The order is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication)

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\* Presiding Justice of the Court of Appeal, First Appellate District, Division Four, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.